

December 15, 2004

The Regular Meeting of the Rockingham County Board of Supervisors was held on Wednesday, December 15, 2004, at 3:00 p.m. at the Rockingham County Administration Center, Harrisonburg, Virginia. The following members were present:

PABLO CUEVAS, Election District #1
CHARLES W. AHREND, Election District #2
DEE E. FLOYD, Election District #3
WILLIAM B. KYGER, JR., Election District #4
MICHAEL A. BREEDEN, Election District #5

Also present:

JOSEPH S. PAXTON, County Administrator
G. CHRIS BROWN, County Attorney
STEPHEN G. KING, Deputy County Administrator
JAMES L. ALLMENDINGER, Director of Finance
WENDELL J. EBERLY, Director of Recreation and Facilities
JENNIFER M. HOOVER, Director of Public Works
FRANKLIN P. O'BYRNE, Director of Information Systems
ROBERT A. SYMONS, Fire and Rescue Chief
WILLIAM L. VAUGHN, Director of Community Development
DIANA C. STULTZ, Zoning Administrator
DOTTIE L. BOWEN, Deputy Clerk
DONALD KOMARA, Resident Engineer
Virginia Department of Transportation

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CALL TO ORDER
PLEDGE OF ALLEGIANCE AND INVOCATION.

Chairman Ahrend called the meeting to order at 3:00 p.m.

Finance Director Allmendinger led the Pledge of Allegiance, and Supervisor Kyger gave the invocation.

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APPROVAL OF MINUTES.

On motion by Supervisor Cuevas, seconded by Supervisor Kyger and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; the Board approved the minutes dated November 17, 2004.

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FY2003-04 COMPREHENSIVE ANNUAL FINANCIAL REPORT.

The Board heard a presentation by Mensel D. Dean and Michael Garber, auditors, PBGH, LLP, regarding the FY2003-04 Comprehensive Annual Financial Report.

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COUNTY ADMINISTRATOR'S STAFF REPORT.

The Board received and reviewed Mr. Paxton's staff report dated December 10, 2004, concerning projects to be funded through the Literary Loan, the radio communications system, proposed scenic byway designation for U.S. Route 11, Blue Ridge Community College, and December 9, 2004, meeting with Rockingham Memorial Hospital officials.

Mr. Paxton advised of a meeting called by the City of Harrisonburg on November 19, 2004, to discuss the possibility of requesting that the Commonwealth Transportation Board designate U.S. Route 11 from Botetourt County to Frederick County as a scenic byway. He reminded the Board that several years ago it declined a request from Shenandoah County to designate the segment of Route 211 from Timberville to New Market as a scenic byway because of concerns with the potential pressure to reduce the available uses of property adjacent to and in the immediate vicinity of the road. He pointed out that the Board's Technological and Industrial Park is located on Route 11 and the road is a significant economic development corridor for the County while the purpose of scenic byway designation is to preserve open space, vistas, etc., which is not always possible in industrial areas. Chairman Ahrend asked Mr. Paxton to solicit from the Commonwealth Transportation Board and any other appropriate authorities what land use changes might take place with such a change in designation.

Mr. Paxton reminded the Board that, several months ago, the Board heard a presentation by the President of Blue Ridge Community College, outlining the College's plans for expansion, and reminding that the local governments have responsibility for all improvements to property outside the footprint of the building. He pointed out the costs to the County for the next ten years to fund these

improvements will be included in the draft budget for the Board's consideration for the coming year.

Mr. Paxton advised that he had received a letter from BFI Waste Systems of Virginia (which will construct an expansion of the Old Dominion Landfill in Henrico County) which is required to ask if other local governments would like to have disposal capacity in that landfill. Staff will meet with the Public Works Committee and provide a recommendation to the Board in January 2005.

On motion by Supervisor Kyger, seconded by Supervisor Floyd and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; the Board re-appointed Henry Hawkins and Mark Shickel to four-year terms on the Industrial Development Authority, expiring on December 31, 2008.

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COUNTY ATTORNEY'S STAFF REPORT.

The Board received and reviewed Mr. Brown's staff report dated December 9, 2004, including information concerning the M/A-Com contracts, Emergency Communications System financing, Motorcycle Committee report, PPEA project for Rockingham County School Board Office facility, and designation of Deputy Subdivision agents.

Supervisor Cuevas made the following statement. "The Finance Committee met today to review the contract documents and financing arrangements with staff. This radio system project has been researched and debated for over 2 years, which has brought us to this point today. The total cost of the project is \$18.9 million dollars, with approximately \$14.9 million in infrastructure costs that will be shared with the City 50/50, and \$3.9 million in costs of which 54.05% is the County's share of the cost and is for the purchase of portable and mobile radios for the volunteer fire and rescue personnel, as well as, county employee equipment (such as the Sheriff's Department).

"I would like to bring to the Board's attention the thorough and good work of the County Attorney and members of staff. This has not been a one-man show. They have gone over the contract a number of times. Mr. Ahrend and I spent a considerable amount of time trying to understand what it is we are recommending to the Board on behalf of the citizens of the County. The staff has done a good job. We have to trust part of this decision-making to the experts who work on this on a daily basis. We are not going to please everyone who is going to use the system.

"The Committee recommends:

1. The Board authorize the ECC Board (which is made up of the County Administrator and the City Manager) to execute the contracts with M/A-Com for the construction of the system in an amount not to exceed \$18,915,728, and

other related contracts for maintenance and operation of the system.

"2. The Board enter into a lease purchase agreement with Sun Trust Bank and approve the [following] resolution [Resolution No. 04-27 prepared by Ms. [Carolyn M.] Perry [bond counsel] to complete this approval. By taking this action the Board will authorize the County to enter into a lease-purchase agreement for \$7,150,000 for 15 years at 3.76%.

"3. The Board authorizes staff to prepare the necessary actions to use up to \$2,334,327 from the fund reserve for the purchase of the portable and mobile radios.

"4. The Board directs staff to advertise the intent to increase the E911 tax from \$1.50 per month to \$3.00 per month. With this increase the homeowner will be paying about 10 cents per day for this service.

"5. Authorize staff to advertise a budget amendment for the current year of up to \$4 million to pay for County costs anticipated to be incurred before June 30, 2005."

Supervisor Cuevas advised that this statement was his motion, which was seconded by Supervisor Kyger. The motion carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE.

RESOLUTION NO. 04-27
AUTHORIZING UP TO \$7,150,000 LEASE PURCHASE AGREEMENT
(COMMUNICATION PROJECT), SERIES 2004 ("BANK-QUALIFIED")

WHEREAS, the Board of Supervisors of Rockingham County, Virginia (the "County") proposes to undertake a lease financing in the maximum aggregate amount up to \$7,150,000 in order to pay capital costs to (i) acquire real estate and interests in real estate, (ii) acquire, install, construct and equip certain emergency communications equipment for essential governmental purposes in Rockingham County, Virginia, (iii) pay interest during the acquisition and construction period, and (iv) pay issuance expenses (collectively, the "Project"); and

WHEREAS, pursuant to the terms and conditions of that certain ordinance entitled, "Ordinance for the Joint Exercise of Powers By the City of Harrisonburg, Virginia and Rockingham County, Virginia" (the "Ordinance"), duly authorized by the County on September 10, 2003, and by the City on August 26, 2003, the parties have undertaken jointly to establish the Rockingham-Harrisonburg Emergency Communications Center (ECC) and to provide for the purchase, operation, maintenance and financing of a two-way radio system for public safety and general government operations in the County and the City; and

WHEREAS, the County and the City, acting through the ECC, have entered into a System Purchase Contract, dated December ____, 2004, together with related software license and maintenance agreements, with M/A-Com, Inc., for the acquisition of the Project; and

WHEREAS, SunTrust Bank (the "Bank") has offered to assist the County with the lease purchase financing of the portion of the Project allocable to the County (such portion being referenced herein as the "Project"), and to enter into the up to \$7,150,000 Rockingham County, Virginia Lease Purchase Agreement (Communication Project), Series 2004 ("Bank-Qualified") (the "Agreement") pursuant to the terms and conditions set forth in the commitment letter from the Bank to the Board dated November 29, 2004, a copy of which is attached hereto as **Exhibit A**, as amended and supplemented by the Bank and the County from time to time pursuant to subsequent negotiations (collectively, the "Bank Term Sheet"); and

WHEREAS, the foregoing arrangements will be reflected in the Agreement, to be dated as of December 15, 2004, between the Bank, as Lessor, and the County, as Lessee, a substantially final form of which has been presented at this meeting; and

WHEREAS, pursuant to the Agreement, the Bank will pay the costs of the Project that are allocable to the County, and will lease the Project to the Board; and

WHEREAS, the County reasonably expects the Project to continue to be essential to the functions of the County for a period of not less than the term of the Agreement; and

WHEREAS, the County has taken (or will take, as the case may be) the necessary steps under the Virginia Public Procurement Act, Chapter 43, Title 2.2 of the Code of Virginia, 1950, as amended, to arrange for the acquisition of the Project; and

WHEREAS, all amounts payable by the County under the Agreement are subject to sufficient appropriations from time to time from the Board of Supervisors of the County, upon due request of the County Administrator or other officers charged with the responsibility of preparing the County's budget for each fiscal year, and the County shall be under no legal obligation to make any appropriation with respect to the Agreement; and

WHEREAS, the Agreement shall not constitute a general obligation of the County, or a pledge of the full faith and credit of the County, or a charge against the general credit or taxing power of the County, and any amounts payable by the County under the Agreement shall not constitute a debt of the County within the meaning of any constitutional or statutory limitation; and

WHEREAS, at the request of the Bank, as Lessor under the Agreement, the Board desires to designate the principal amount of the Agreement as a "qualified tax-exempt obligation" under the provisions of Section 265(b)(3) of the Internal Revenue Code of 1986, as amended (the "Code").

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF ROCKINGHAM COUNTY, VIRGINIA:

1. Essential Governmental Purpose of Project; Designation of Agreement. The Board of Supervisors of the County hereby finds and determines that the Project and the terms and conditions of the Agreement, including the rental payments to the Bank, as Lessor, are in the best interests of the County for the acquisition and financing of the Project, and are in furtherance of the essential governmental purposes of the County.

2. Approval of Bank Term Sheet; Designation of Agreement and Details. The terms and provisions of the Bank Term Sheet are hereby approved and incorporated herein as if fully stated in the text of this Resolution.

The Agreement shall be designated as the up to "\$7,150,000 Rockingham County, Virginia Lease Purchase Agreement (Communication Project), Series 2004 ("Bank-Qualified")", and shall be fully registered. The Clerk of the Board is hereby appointed as Registrar of the Agreement.

Under the Bank Term Sheet, the Board hereby elects a fully amortized lease term of fifteen (15) years payable in annual payments of principal together with semi-annual payments of interest, in arrears, computed at a fixed interest rate of 3.76% per annum. For illustration purposes, the rental payment schedule, reflecting the principal component and the interest component computed at the rate of 3.76% per annum, is set forth on the attached Schedule I.

3. Approval and Execution of Agreement. The Agreement is hereby approved in substantially the form presented at this meeting. The execution, delivery, and performance of the Agreement are hereby authorized. The Chairman or Vice-Chairman of the Board and the County Administrator and the Deputy County Administrator, any one or more of whom may act, are each hereby appointed as Authorized Representatives under the Agreement. Each of the Authorized Representatives are authorized and directed to determine the final aggregate principal amount of the Agreement, provided that such aggregate principal amount of the Agreement shall not exceed the amount authorized herein, and, further, to execute, acknowledge, and deliver the Agreement with any other changes, insertions and omissions therein as may be approved by any one or more of the Authorized Representatives. All such approvals shall be conclusively evidenced by the execution and delivery thereof by any of the Authorized Representatives as having been so accepted as authorized by this Resolution, without further action from the Board of Supervisors of the County being required therefore. The Clerk of the Board is authorized and directed, if required, to affix or to cause to be affixed the seal of the County to the Agreement and any of the Documents and to attest such seal. Each officer or agent of the County is further authorized and directed to execute and deliver on behalf of the County such additional instruments, documents or certificates, and to do and perform such things and acts, as they shall deem necessary or appropriate to carry out the transactions authorized herein or contemplated by the Agreement, as may be advised by the County Attorney and Bond Counsel, including, but not limited to such instruments and performance of acts as may be required in order for the Agreement to qualify as an exempt "bank-qualified" lease financing arrangement pursuant to the provisions of the Code and Treasury Regulations thereunder and the laws of the Commonwealth of Virginia. All of the foregoing acts previously performed by such officers or agents of the County are in all respects approved, ratified and confirmed.

4. Tax Compliance Matters. The Board of Supervisors of the County hereby represents and covenants that the Project, and all proceeds thereof, including but not limited to any investment earnings in connection with the escrow of the lease purchase funds to be held by the Bank, as Lessor, or the Bank, as Project Fund Manager, shall be used for the essential governmental purposes of the County. To this end, to the extent that the principal amount of the Agreement, together with any proceeds thereof (including but not limited to investment earnings thereon), shall exceed the actual cost of the Project, as presently contemplated, it is to be understood that the Board hereby authorizes that any such additional amounts available under the Agreement, if any, shall be expended by the County for capital projects for essential

governmental purposes for the benefit of the County, or as otherwise may be required under the Code, including the optional prepayment of a portion of the outstanding principal amount of the Agreement.

Accordingly, the County shall comply with the provisions of the Code, including the provisions of Section 148 of the Code and applicable regulations relating to "arbitrage bonds." The County further covenants that (i) the proceeds from the issuance and delivery of the Agreement (including but not limited to investment earnings), all as described under the Code, will be expended and invested as set forth in the Agreement and the Tax Certificate, to be delivered by the County on the commencement date of the Agreement, and that the County shall comply with the covenants and representations contained therein, and (ii) the County shall comply with the provisions of the Code so that the interest component of the rental being paid by the County to the Bank will remain excludible from gross income for Federal income tax purposes.

5. Designation of Agreement as "Bank-Qualified". The Agreement is hereby designated as a "qualified tax-exempt obligation" within the meaning of Section 265(b)(3) of the Code. The Board of Supervisors of the County affirms its reasonable expectation as to the County's compliance with the \$10 million limitations therein, including the covenant that the County reasonably anticipates that no more than \$10,000,000 tax-exempt obligations shall be issued by the County (including any subordinate entities thereof) during the current calendar year in accordance with such limitations.

6. Nature of Obligation. It is to be understood that the Agreement represents a rental arrangement between the County and the Bank. Nothing in this Resolution or the Agreement shall constitute a debt of the County, and the County shall not be obligated to make any payments under this Resolution or the Agreement except from monies appropriated by the Board of Supervisors of the County therefore, from time to time.

7. Effective Date. This Resolution shall be effective upon its adoption.

DATED: December 15, 2004

ROCKINGHAM COUNTY, VIRGINIA

By: _____
Chairman

CERTIFICATE

The record of the roll-call vote by the Board of Supervisors of Rockingham County, Virginia, on the foregoing Resolution, taken at a duly held public meeting of the Board on the date hereof, is as follows:

	AYE	NAY	ABSTAIN	ABSENT
Charles W. Ahrend, Chairman	X			
William B. Kyger, Jr.	X			
Michael A. Breeden	X			
Dee E. Floyd	X			
Pablo Cuevas	X			

Mr. Brown reminded the Board of the Committee it appointed in August 2004 to review the issue of excessive noise from motorcycles. He reported that, after reviewing several sections of the Virginia Code applicable to the regulation of motorcycle noise, the Committee unanimously agreed to recommend that the Board not consider legislation at this time but rather permit Committee members of the motorcycle-riding and business community to monitor the issue and encourage self-policing by other members of the

motorcycle community through their businesses and motorcycle clubs and associations. If complaints regarding motorcycle noise are renewed, the Committee would be reassembled to evaluate more formal actions to be taken by the County.

On motion by Supervisor Kyger, seconded by Supervisor Breeden and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; the Board agreed to accept this recommendation with the understanding that, if this is not a satisfactory solution, the Board will consider more formal regulations.

Mr. Brown reported that on Friday, December 3, 2004, Nielsen Builders, Inc., submitted to the County an unsolicited proposal under the Virginia Public-Private Education Facilities and Infrastructure Act of 2002 for the design, construction, and financing of a new office facility for the Rockingham County School Board on property owned by Rockingham County and located on the north side of Mt. Clinton Pike in the City of Harrisonburg. He advised that the Board needed to determine whether to accept the unsolicited proposal for further review and, if so, a resolution concerning the matter should be adopted.

On motion by Supervisor Cuevas, seconded by Supervisor Kyger and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; the Board adopted the following resolution:

RESOLUTION NO. 04-28

On December 3, 2004, the Board of Supervisors of Rockingham County received an unsolicited proposal under the Virginia Public-Private Education Facilities and Infrastructure Act of 2002 from Nielsen Builders, Inc. for the design, construction, and financing of a new office facility for the Rockingham County School Board on property owned by Rockingham County and located on the north side of Mt. Clinton Pike in the City of Harrisonburg, Virginia and designated as Harrisonburg Tax Map Parcels 44-A-1 and 44-A-25. The Board of Supervisors intends to evaluate the proposal and may negotiate a comprehensive agreement with Nielsen Builders, Inc., based on the proposal. The Board of Supervisors will accept for simultaneous consideration any competing proposals that comply with the procedures adopted by the Board and the Public-Private Education Facilities and Infrastructure Act of 2002, which are submitted to James Allmendinger, Director of Finance, Rockingham County Administration Center, no later than 2:00 p.m. on Monday, January 24, 2005.

The Rockingham County Board of Supervisors shall negotiate and enter into a comprehensive agreement in accordance with procedures consistent with the procurement of other than professional services through competitive negotiation as allowed by Virginia Code Section 56-

575.16(2) and as further defined by Virginia Code Section 2.2-4301 and Subsection B of 2.2-4310. The Board hereby makes determination that doing so is likely to be advantageous to the Board and the public, based upon (i) the probable scope, complexity and urgency of need and (ii) the risk sharing, added value, increase in funding or economic benefit from the project that would not otherwise be available, including the urgent need for such facility and the accelerated time frame necessary for construction thereof.

Mr. Brown reminded the Board of its past action to designate Diana Stultz as the County's Subdivision Agent with all powers and authority to administer the Rockingham County Subdivision Ordinance. He reported that, recently, Diane Lepkowski, the Deputy Zoning Administrator, and William Vaughn, Director of Community Development, have been more active in the enforcement and administration of the Subdivision Ordinance and noted that, while Mr. Vaughn and Ms. Lepkowski's job descriptions imply that they are authorized to administer the Subdivision Ordinance, and particularly to sign deeds which qualify for exemption from the Subdivision Ordinance, he recommended that the Board officially designate both Mr. Vaughn and Ms. Lepkowski, in their respective capacities as Deputy Zoning Administrator and Director of Community Development, as Deputy Subdivision Agents with full power to administer and enforce the Rockingham County Subdivision Ordinance, and to ratify any action taken by Ms. Lepkowski and Mr. Vaughn related to the administration and enforcement of the Subdivision Ordinance. Mr. Brown explained that Ms. Stultz would continue as the Subdivision Agent, with Ms. Lepkowski and Mr. Vaughn as Deputy Subdivision Agents.

On motion by Supervisor Kyger, seconded by Supervisor Floyd and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; the Board designated William Vaughn, Director of Community Development, and Diane Lepkowski, Deputy Zoning Administrator, as Deputy Subdivision Agents with all powers and authority to administer the Rockingham County Subdivision Ordinance and particularly to sign deeds which qualify for exemption from the Subdivision Ordinance and, further, ratified any action taken by Ms. Lepkowski and Mr. Vaughn related to the administration and enforcement of the Subdivision Ordinance.

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PUBLIC WORKS DIRECTOR'S STAFF REPORT.

The Board received and reviewed Ms. Hoover's staff report dated December 10, 2004, including information concerning progress on the sewer project for Route 11 North, Countryside water system, Penn Laird Drive and Water Tower

Road sewer, Lakewood/Massanetta Springs pump station, Spotswood High School water tank and waterline extension, Grottoes Container Site, Water/Sewer specifications, and City of Harrisonburg Waste to Energy Plant.

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COMMUNITY DEVELOPMENT DIRECTOR'S STAFF REPORT.

The Board received and reviewed Mr. Vaughn's staff report dated December 10, 2004, including information concerning Planning Commission activities, McGaheysville Area Study, special permit request for French's Auto Parts, Development activity, priority projects underway, summary of upcoming requests and tabled requests.

On motion by Supervisor Cuevas, seconded by Supervisor Kyger and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; under Section 17-162, Rockingham County Code, the Board approved a special permit for rebuilding (on the same foundation and at the same size) of French's Auto Parts, 13876 North Valley Pike, which was destroyed by fire on November 17, 2004.

At Supervisor Kyger's suggestion, Chairman Ahrend asked staff to prepare, for the Board's consideration, an ordinance amendment to allow produce auction houses in A1, A2, RS1 and B2 by special use permit.

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INFORMATION SYSTEMS DIRECTOR'S STAFF REPORT.

The Board received and reviewed Mr. O'Byrne's staff report dated December 9, 2004, including information concerning projects and equipment changes in the Information Systems Department.

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FIRE AND RESCUE CHIEF'S STAFF REPORT.

The Board received and reviewed Chief Symons' staff report dated December 8, 2004, including information concerning training, prevention activities, public education, and other activities.

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RECREATION AND FACILITIES DIRECTOR'S STAFF REPORT.

The Board received and reviewed Mr. Eberly's staff report dated December 9, 2004, including information concerning Plains District Community Center, District Court renovation, Community Development renovation, McGaheysville Elementary baseball field, and recreation programs.

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APPOINTMENTS.

On motion by Supervisor Kyger, seconded by Supervisor Cuevas and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; the Board re-appointed Stuart Wood and appointed Myra Yancey to the Social Services Advisory Board for four-year terms ending on December 31, 2008.

On motion by Supervisor Floyd, seconded by Supervisor Breeden and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; the Board re-appointed Don L. Dofflemeyer to a four-year term on the Recreation Commission, expiring on December 31, 2008.

On motion by Supervisor Breeden, seconded by Supervisor Floyd and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; the Board re-appointed Roy Griffin to a four-year term on the Recreation Commission, expiring on December 31, 2008.

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RECESS.

At 5:06 p.m., Chairman Ahrend declared the meeting recessed for a field trip to the Frances T. Owens Special Use Permit site and for dinner.

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CALL TO ORDER - STUDENTS WELCOMED.

At 6:30 p.m., Chairman Ahrend called the meeting back to order and the Board welcomed students from Broadway High School government class.

**JOINT PUBLIC HEARING OF THE ROCKINGHAM COUNTY BOARD OF
SUPERVISORS AND THE VIRGINIA DEPARTMENT OF TRANSPORTATION ON
THE SECONDARY SIX-YEAR PLAN FOR FISCAL YEARS 2005-06
THROUGH 2010-11 IN ROCKINGHAM COUNTY AND ON THE SECONDARY
SYSTEM CONSTRUCTION BUDGET FOR FISCAL YEAR 2005-06.**

At 6:30 p.m., Chairman Ahrend declared the meeting open for a Public Hearing on with the Virginia Department of Transportation on the Secondary Six-Year Plan for Fiscal Years 2005-06 through 2010-11 in Rockingham County and on the Secondary Construction Budget for Fiscal Year 2005-06.

Donald F. Komara, VDOT Resident Engineer, reviewed the specifics of the Six-Year Plan and the Construction Budget, noting that funds were limited. He pointed out the need to correct a typographical error in regard to the Route 644 project.

Mr. Paxton advised that he had received information that, on Switchboard Road, Route 910, the owner of the property at the curve is willing to donate the right-of-way and take the house down and that there may be a septic system on that side of the road so the relocation of the alignment would have to be carefully considered. He advised also that a developer appeared to be willing to remove the trees.

Mr. Komara reported that Garrett Moore replaced Dennis Morrison as the VDOT District Administrator. At Supervisor Cuevas' suggestion, Mr. Komara agreed to arrange a work session so that the Board can have an opportunity to meet and speak with Mr. Moore. Supervisor Cuevas asked that Dr. Phillip Stone, Commonwealth Transportation Board, be invited to the work session.

There were no requests to speak on the Six-Year Plan and the Secondary Construction Budget.

Chairman Ahrend closed the public hearing and called the meeting back to order at 6:55 p.m.

On motion by Supervisor Cuevas, seconded by Supervisor Kyger and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; the Board approved the Secondary Six-Year Plan for Fiscal Years 2005-06 through 2010-11 in Rockingham County and the Secondary Construction Budget for Fiscal Year 2005-06 as follows:

SECONDARY SYSTEM
COUNTY: ROCKINGHAM
CONSTRUCTION PROGRAM
ESTIMATED ALLOCATIONS

Fiscal Year	Incidental Construction	Regular Construction	Unpaved Construction	Total
2005-06	\$571,287	\$1,727,922	\$616,000	\$2,915,209
2006-07	\$897,600	\$1,174,037	\$800,000	\$2,871,637
2007-08	\$172,600	\$1,754,045	\$750,000	\$2,676,645
2008-09	\$172,600	\$1,775,092	\$750,000	\$2,697,692
2009-10	\$172,600	\$1,441,823	\$600,000	\$2,214,423
2010-11	\$172,600	\$1,441,823	\$600,000	\$2,214,423
Totals	\$2,159,287	\$ 9,314,742	\$4,116,000	\$15,590,029

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**RZ03-10 DIVERSIFIED PROPERTIES, LLC
REMOVED FROM TABLE AND APPROVED.**

On motion by Supervisor Kyger, seconded by Supervisor Cuevas and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; the Board removed from the table RZ03-10 Diversified Properties, LLC, 1910 Erickson Avenue, Suite 1, Harrisonburg, to rezone 9.64 acres from A2 (General Agricultural) to R3 Conditional (General Residential with Conditions) on a portion of tax parcel 108 (6) 1 and located on the west side of Pear Street (City) approximately 400 feet south of South High Street (Route 42) in Election District #4. The request was tabled by the Board on August 25, 2004.

On motion by Supervisor Kyger, seconded by Supervisor Cuevas and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; the Board approved RZ03-10 Diversified Properties, LLC, subject to the following proffers.

- 1) It is proffered that the rezoned land will be used for single-family detached dwellings only.
- 2) The lots will be served by public water and sewer.
- 3) Not more than twenty-five lots will be developed within the County portion of the property.
- 4) Not more than fifteen lots will be developed within the first year.

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**S04-60, REQUEST OF FRANCES T. OWENS, REMOVED
FROM TABLE AND DENIED.**

On motion by Supervisor Breeden, seconded by Supervisor Cuevas and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; the Board removed from the table S04-60, request of Frances T. Owens, 21719 Dry Run Falls Trail, Elkton, for animal husbandry (fighting cocks) on property located on the southwest side of Thoroughfare Road (Rt. 625) and Dry Run Falls Trail (private road) in Stonewall Magisterial District, Election District #5, zoned RR1. This request was tabled by the Board on November 17, 2004.

Supervisor Breeden made the following statement. "This is yet another case in which this Board is called upon to balance the rights of an individual property owner with the rights of his or her neighbors. I have visited the Owens property twice now. Today, the entire Board visited Ms. Owens' property and while it is located in a rural area of Rockingham County, it is located in an RR-1 subdivision. Under the Rockingham County Zoning Ordinance, the RR-1 district is designed to provide for housing developments in rural and mountainous areas of the County that are unsuitable for intensive agricultural uses. Residential RR-1 subdivisions are intended to provide space for low-density residential development for full-time residences. In keeping with the intended rural nature of RR-1 subdivisions, the Board may allow an RR-1 property owner to keep a certain number of domestic animals on the property with a special use permit. Our Code defines domestic animals as those used for animal husbandry, such as cattle, horses, sheep, poultry, etc., but kept only for personal use or casual sales. I believe it is important to note that this Board can grant a special use permit to allow such domestic animals only if the Board finds that such a use is compatible with the surrounding uses, is not detrimental to the character of the adjacent lands, is consistent with the intent of the RR-1 provisions, and is in the public interest. I know Ms. Owens has had these roosters on her property for some time now. However, last month we heard from some of her neighbors; and it appears that the neighbors have not been very happy about the roosters over the years. The neighbors cited excessive noise from the roosters, the roosters coming over onto neighbors' properties, and a general decrease in the adjoining property values as a result of Ms. Owens keeping so many roosters on her property. I think the purpose of allowing domestic animals in RR-1 subdivisions with a special use permit is to allow a reasonable number of certain types of domestic animals, which will not interfere with neighbors. While we have to take each application on a case-by-case basis, I believe, generally speaking, our ordinance is designed to allow a couple of horses, cows or a small number of chickens or other animals to be used by the landowner for personal use. I believe that having 89 roosters and having people coming to the property to buy and sell roosters, crosses the line, is not compatible with the surrounding uses and is detrimental to the adjacent property owners. I want to point out that my decision is

not based on the fact that these are fighting roosters. I believe that 89 roosters, whether fighting roosters or not, is just too extreme for this property. Therefore, I move to deny this special use application." Supervisor Floyd seconded the motion for denial. The motion carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE.

Supervisor Cuevas suggested, in view of the questions that had arisen, the Board ask staff to revisit the County's regulations dealing with the number of animals that may be kept in subdivisions, so they can be considered in relation to subdivision covenants, and bring back to the Board in a timely way any recommendations for adjustment that may be needed.

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PUBLIC HEARING - SPECIAL USE PERMIT REQUESTS.

At 7:09 p.m., Chairman Ahrend declared the meeting open for a Public Hearing on the following special use permit requests. Ms. Stultz reviewed the details of the requests.

S04-62 Michael W. Lambert, 9553 Frank Lane Road, Singers Glen for a garage to work on company trucks (like use to public garage) on property located on the west side of Frank Lane Road (Route 776) approximately 2/10 mile southwest of Morning View Road (private road) in Linville Magisterial District, Election District #2, zoned A-2. Tax Map #63-(A)-2B1.

The applicant was present to answer questions.

No opposition was expressed.

S04-63 Larry P. and Betty A. Suter, 4110 Singers Glen Road, Harrisonburg for a public garage and general repair other than vehicles on property located on the northeast side of Singers Glen Road (Route 763) approximately 200 feet east of Cooks Creek Road (Route 701) in Central Magisterial District, Election District #2, zoned A-2. Tax Map #92-(3)-8.

Diane Ubel said she lived across the road from Mr. Suter. She considered him to be a good neighbor who never worked "beyond reasonable hours and never worked on Sunday."

No opposition was expressed.

S04-64 Sheldon D. Burkholder, 7620 Gladwell Lane, Harrisonburg for a residence involving a division of land on property located on the west side of Gladwell Lane (private road) approximately 3/10 mile west of War Branch Road (Route 726) in Central Magisterial District, Election District #2, zoned A-1. Tax Map #90-(A)-215.

The applicant was present to answer questions.

No opposition was expressed.

S04-65 Packsaddle Ridge L.L.C., PO Box 1039, Harrisonburg for six (6) directional signs 2'x 2' in size on properties as listed below:

- ❑ Property located on the southeast side of Indian Trail Road (Route 717) across from Old Furnace Road (Route 718) in Central Magisterial District, Election District #3, zoned A-2. Tax Map #111-(A)-10 or 110-(2)-2A.
- ❑ Property located on the southeast side of the intersection of Indian Trail Road (Route 717) and Minie Ball Lane (Route 718) in Central Magisterial District, Election District #3, zoned A-2. Tax Map #96-(A)-38.
- ❑ Property located on the northeast side of the intersection of Indian Trail Road (Route 717) and Minie Ball Lane (Route 718) in Linville Magisterial District, Election District #3, zoned A-2. Tax Map #96-(A)-23.
- ❑ Property located on the southeast side of Mountain Valley Road (Route 620) just north of Minie Ball Lane (Route 718) in Linville Magisterial District, Election District #3, zoned A-2. Tax Map #96-(A)-45.
- ❑ Property located on the northeast side of the intersection of Mountain Valley Road (Route 620) and Pack Saddle Trail (Route 724) in Linville Magisterial District, Election District #2, zoned A-2. Tax Map #96-(A)-47.
- ❑ Property located on the east side of Mountain Valley Road (Route 620) just north of Lairds Knob Drive (Route 942) in Central Magisterial District, Election District #3, zoned A-2. Tax Map #111-(A)-82.

Kevin Williams, representing the applicant, was present to answer questions.

David Briggman asked if a sign could be erected so that people coming north on Route 620 would be directed to the golf course.

Mr. Williams agreed to look into that possibility.

Supervisor Cuevas suggested adding a condition that the County would waive the filing fee if such a sign were requested.

No opposition was expressed.

Chairman Ahrend closed the public hearing and called the meeting back to order at 7:16 p.m.

At the request of Chairman Ahrend, on motion by Supervisor Floyd, seconded by Supervisor Kyger and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; subject to the following conditions, the Board approved S04-62, request of Michael W. Lambert, 9553 Frank Lane Road, Singers Glen for a garage to work on company trucks (like use to public garage) on property located on the west side of Frank Lane Road (Route 776) approximately 2/10 mile southwest of Morning View Road (private road) in Linville Magisterial District, Election District #2, zoned A-2.

- (1) The use shall be located in substantial accordance with plot plan as approved by the Board of Supervisors.
- (2) Building shall comply with the Virginia Uniform Statewide Building Code, and the proper permits shall be obtained.
- (3) VDOT reserves the right to require future entrance upgrades should conditions warrant.
- (4) This permit is contingent upon a site plan being submitted to and approved by the County. No permits shall be issued by the Department of Community Development and no work shall be done on the property until such time as a site plan is approved.
- (5) Applicant (or occupant of the residence should property be sold at a later date) shall be the only employee in this garage.
- (6) All work shall be done inside the building and all parts shall be kept in the building.
- (7) There shall be no junk, trash or debris allowed to accumulate on the property.
- (8) This garage shall be used for company vehicles only and shall not be open to the public.
- (9) This business shall not begin operation until such time as a certificate of occupancy is issued by the County. No certificate of occupancy shall be issued until all other conditions of this permit are met.

At the request of Chairman Ahrend, on motion by Supervisor Floyd, seconded by Supervisor Kyger and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; subject to the following conditions, the Board approved S04-63, request of Larry P. and Betty A. Suter, 4110 Singers Glen Road, Harrisonburg for a public garage and general repair other than vehicles on property located on the northeast side of Singers Glen Road (Route 763) approximately 200 feet east of Cooks Creek Road (Route 701) in Central Magisterial District, Election District #2, zoned A-2.

- (1) The use shall be located in substantial accordance with plot plan as approved by the Board of Supervisors.
- (2) A building permit shall be obtained to convert the building from private use to a commercial use.
- (3) VDOT reserves the right to require future entrance upgrades should conditions warrant.
- (4) This permit is contingent upon a site plan being submitted to and approved by the County. No permits shall be issued by the Department of Community Development and no work shall be done on the property until such time as a site plan is approved.
- (5) All work shall be done inside the building and there shall be no outside storage of parts.
- (6) There shall be no more than 5 vehicles associated with the garage portion of this business on the property at any time.
- (7) There shall be no accumulation of junk, trash and debris allowed to accumulate on the property.
- (8) This business shall not begin operation until such time as a certificate of occupancy is issued by the County. No certificate of occupancy shall be issued until all other conditions of this permit are met.

At the request of Chairman Ahrend, on motion by Supervisor Floyd, seconded by Supervisor Kyger and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; subject to the following conditions, the Board approved S04-64, request of Sheldon D. Burkholder, 7620 Gladwell Lane, Harrisonburg for a residence involving a division of land on property located on the west side of Gladwell Lane (private road) approximately 3/10 mile west of War Branch Road (Route 726) in Central Magisterial District, Election District #2, zoned A-1. Tax Map #90-(A)-215.

- (1) The use shall be located in substantial accordance with plot plan as approved by the Board of Supervisors.

- (2) Residence shall comply with the Virginia Uniform Statewide Building Code, and the proper permits shall be obtained.
- (3) VDOT reserves the right to require future entrance upgrades should conditions warrant.
- (4) If deed exception is made within one year from date of approval of the special use permit, the residence on the property shall be exempt from the one-year completion date.
- (5) This residence shall not be used for rental purposes.
- (6) This residence shall not be occupied until a certificate of occupancy is issued from the County. No certificate of occupancy shall be issued until all other conditions of this permit are met.

On motion by Supervisor Floyd, seconded by Supervisor Kyger and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; subject to the following conditions, the Board approved S04-65, request of Packsaddle Ridge L.L.C., PO Box 1039, Harrisonburg for six (6) directional signs 2' x 2' in size on properties as listed below:

- ❑ Property located on the southeast side of Indian Trail Road (Route 717) across from Old Furnace Road (Route 718) in Central Magisterial District, Election District #3, zoned A-2. Tax Map #111-(A)-10 or 110-(2)-2A.
 - ❑ Property located on the southeast side of the intersection of Indian Trail Road (Route 717) and Minie Ball Lane (Route 718) in Central Magisterial District, Election District #3, zoned A-2. Tax Map #96-(A)-38.
 - ❑ Property located on the northeast side of the intersection of Indian Trail Road (Route 717) and Minie Ball Lane (Route 718) in Linville Magisterial District, Election District #3, zoned A-2. Tax Map #96-(A)-23.
 - ❑ Property located on the southeast side of Mountain Valley Road (Route 620) just north of Minie Ball Lane (Route 718) in Linville Magisterial District, Election District #3, zoned A-2. Tax Map #96-(A)-45.
 - ❑ Property located on the northeast side of the intersection of Mountain Valley Road (Route 620) and Pack Saddle Trail (Route 724) in Linville Magisterial District, Election District #2, zoned A-2. Tax Map #96-(A)-47.
 - ❑ Property located on the east side of Mountain Valley Road (Route 620) just north of Lairds Knob Drive (Route 942) in Central Magisterial District, Election District #3, zoned A-2. Tax Map #111-(A)-82.
- (1) The use shall be located in substantial accordance with plot plan as approved by the Board of Supervisors.

- (2) Permits shall be obtained for these signs if required by the Building Official.
- (3) All signs shall be located a minimum of five feet off State right-of-way.
- (4) Applicant shall notify the Zoning Administrator when the signs are erected.
- (5) Signs shall remain in good repair at all times and if not kept in good repair shall be removed or replaced.
- (6) If the business advertised on the signs should cease operation, the signs shall be removed from the property within thirty days from the day the business ceases operation.
- (7) All County laws pertaining to directional signs shall be met.

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JOINT PUBLIC HEARING WITH PENN LAIRD SEWER AUTHORITY.

At 7:19 p.m., Chairman Ahrend declared the meeting open for a Joint Public Hearing with the Board of Directors of the Penn Laird Sewer Authority.

County Attorney Brown announced that the purpose of the public hearing being held by the Board of Supervisors and the Board of Directors of the Penn Laird Sewer Authority was to receive public comment and to consider the adoption of a proposed resolution authorizing the issuance by the County of Virginia Taxable Revenue Bonds not to exceed \$382,800, which might be issued in one or more series, in order to provide funds to acquire, construct, and equip sewer system facilities located in the County designated as "Penn Laird Sewer System", and pay issuance expenses in connection with the Bonds (collectively, the "Project"). He noted that the Federal Government, acting through the Rural Utilities Service, an agency of the Department of Agriculture, advised that the County is eligible for the loan and that the proceeds, together with grant monies and other monies available to the County, will be used to pay the costs of the Project. He advised that the Bonds would be revenue bonds of the County secured, among other things, by the revenues and receipts received by the County from the sewer system facilities, subject to the County's right to use such monies for the payment of operating and maintenance expenses.

There were no requests to speak on this matter.

Chairman Ahrend closed the public hearing and called the meeting back to order at 7:22 p.m.

On motion by Supervisor Cuevas, seconded by Supervisor Kyger and carried by a vote of 5 to 0, voting recorded as

follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; the Board adopted the following Resolution No. 04-29.

**RESOLUTION AUTHORIZING THE ISSUANCE, SALE AND AWARD OF
\$382,800 ROCKINGHAM COUNTY, VIRGINIA
TAXABLE SEWER SYSTEM REVENUE BOND, SERIES 2004**

WHEREAS, pursuant to Title 15.2 of the Code of Virginia, 1950, as amended (the "Virginia Code"), Rockingham County, Virginia (the "County") is empowered to acquire, purchase, lease as lessee, construct, improve, extend, operate and maintain a sewer or waste system or any combination of such systems (the "System"), and to issue its revenue bonds to pay all or any part of the cost of the System; and

WHEREAS, pursuant to the Virginia Code, the County is empowered to pledge for the payment of principal and interest on its revenue bonds the revenues of the System, so long as the full faith and credit of the Commonwealth of Virginia, the County or any other political subdivision of the Commonwealth of Virginia are not pledged to the payment of such bonds; and

WHEREAS, the County desires financial assistance to (i) acquire, construct and equip System facilities and improvements for the use and benefit of the Penn Laird Sewer Authority (the "Authority"), which area is designated on a map titled, "Penn Laird Sewer System", available for inspection at the office of the County Administrator at 20 East Gay Street, Harrisonburg, Virginia, and (ii) pay issuance expenses in connection therewith (the "Project"); and

WHEREAS, the United States of America, acting through Rural Utilities Services, an agency of the United States Department of Agriculture ("RUS"), has offered to purchase the \$382,800 Rockingham County, Virginia Taxable Sewer System Revenue Bond, Series 2004 (the "Bond"), on the terms described in that certain Letter of Conditions, dated November 2, 2004 (the "Letter of Conditions"), attached hereto as Exhibit A, in order to provide permanent financing needed for the Project; and

WHEREAS, the County shall lease the System to the Authority, and shall secure the payment of principal of and interest on the Bond to RUS by a pledge of the Revenues of the System (described below), including such rental payments by the Authority to the County; and

WHEREAS, RUS also has offered to provide a Rural Development grant not to exceed \$460,000 (the "RUS Grant"), to be used together with the proceeds of the Bond and other lawfully available funds of the County therefore, to provide funding for the Project.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of Rockingham County, Virginia (the "Board"):

1. It is hereby determined to be necessary and expedient for the County to borrow from RUS up to \$382,800 to be used together with the proceeds of the RUS Grant and other lawfully available funds of the County to provide permanent financing for the Project.

2. Pursuant to the Virginia Code, there is hereby authorized to be issued and sold to the RUS, a Rockingham County, Virginia Taxable Sewer System Revenue Bond, Series 2004, in the principal amount of \$382,800 for the purposes described in this Authorizing Resolution.

3. After mature consideration of the method of sale of the Bond and current conditions of the municipal bond market, it is hereby determined that it is in the best interest of the County, the Authority and the Commonwealth of Virginia for the County to accept the offer of RUS to purchase the Bond upon the terms and conditions set forth in the Letter of Conditions, such Bond maturing and bearing interest as set forth below. Such offer from RUS is hereby accepted, and, accordingly, the County agrees to meet such terms and conditions as set forth in the Letter of Conditions. Further, the County hereby does approve, confirm and ratify the terms and provisions of RUS Bulletin 1780-27, Loan Resolution, a copy of which is attached hereto as Exhibit B, all as required by RUS, as if such text were fully set forth herein.

4. The Bond shall be a single, fully registered bond without coupons, shall be numbered R-1, shall be dated as of the date of its delivery to RUS upon payment therefore, or upon payment of the first advance thereunder, as the case may be (the "Closing Date"), shall bear interest at the rate of four and one-half percent (4.5%) per year, and shall provide that payments due the first 12 months will consist of interest only to be paid annually on the first anniversary of the Bond. Payments of principal and interest for the next ensuing 468 months will be amortized in equal monthly installments in the amount of \$1,738.00 per month payable on the same day of each month as the Closing Date (such day of the month for payment of interest or payments of principal and interest, the "Payment Day"), beginning on the first Payment Day following the Closing Date and continuing on the Payment Day in each succeeding month thereafter for the remaining term thereof, unless sooner paid. If not sooner paid, the final installment, together with all other amounts payable under the Bond, shall be due and payable on the Payment Day that is forty (40) years after the Closing Date.

It is to be understood that, in the event RUS shall notify the County that a lower interest rate shall be available to the County at the time of the Closing Date, such lower interest rate, together with the applicable commensurately lower monthly installment amount for payment of the Bond as described herein, shall be deemed conclusively approved under this Authorizing Resolution, it being the intent of the County to obtain the most favorable financing terms possible from RUS.

Further, if the Closing Date occurs on the 29th, 30th or 31st day of the month, the Payment Day shall be the 28th day of the month. The payment of every installment

shall be applied first to interest accrued and then to principal. Installments shall be payable in accordance with the Preauthorized Debit (PAD) payment process, as described in the Commitment Letter, in order to provide for payments to be electronically debited from the County's account on the Payment Day.

5. Installments of principal due on the Bond may be prepaid at the option of the County at any time, in whole or in part, from time to time (but if in part, in inverse order of their maturities), without premium. Prepayment of installments of principal shall not affect the obligation of the County to pay the remaining installments payable as provided in paragraph 4 above so long as any principal amount remains outstanding. The County shall cause notice of such prepayment to be sent by registered or certified mail to the registered owner of the Bond at its address appearing on the registration books of the Registrar not less than thirty (30) days prior to any prepayment date.

6. The Bond shall be signed by the Chairman or Vice-Chairman of the Board, shall be attested to by the Clerk of the Board, and the County's seal shall be affixed thereto.

7. The Bond shall be in substantially the form attached hereto as Exhibit C.

8. The initial address of the registered owner of the Bond as it appears on the registration books shall be Finance Office, USDA/Rural Development 1520 Market Street, St. Louis, Missouri, 63103-2696, or such other office as may be designated in writing and delivered to the Clerk of the Board, who is hereby appointed Registrar. Transfer of the Bond may be registered upon books maintained for that purpose at the office of the Registrar. Prior due presentment for registration of transfer, the Registrar shall treat the registered owner as the person exclusively entitled to payment of principal and interest and the exercise of all other rights and powers of the owner. The Bond shall initially be registered in the name of RUS with an address of Finance Office, USDA/Rural Development, 1520 Market Street, St. Louis, Missouri 63103-2696.

9. The County hereby pledges to RUS to secure the payment and performance of the County's obligations under the Bond, all of the County's right, title and interest to the revenues and receipts received by the County from the System, including any rental payments from the Authority to the County and other monies, if any, in connection with the leasing arrangement between the County and the Authority (collectively, the "Revenues"), subject to the County's right to use the Revenues for the payment of the operating and maintenance expenses of the System. The pledge of the Revenues by the County to secure the Bond shall be valid and binding from and after the Closing Date. The Revenues, as received by the County, shall be immediately subject to the lien of this pledge without any physical delivery of them or further act. The pledge of the Revenues to secure the payment and performance of the County's obligations under the Bond shall have priority over all subsequent obligations and liabilities of the County. In addition, the lien of this pledge shall be valid and binding against all parties having claims of any kind against the County

regardless of whether such parties have notice of this pledge.

10. In addition to the foregoing pledge of the Revenues, the County agrees to establish and maintain a debt service reserve fund (the "Debt Service Reserve Fund") in accordance with applicable law, and further, as described in the Letter of Conditions, which Debt Service Reserve Fund is hereby pledged as security for payment of principal of and interest on the Bond. The Debt Service Reserve Fund shall be funded by the County in monthly deposits equal to ten percent (10%) of the annual combined monthly payments of principal and interest due under the Bond. Such deposits shall be made at the same time as monthly payments of principal and interest are due and payable under the Bond, with the first such deposit due and payable at the same time as the first monthly payment of principal and interest is due. The County shall make subsequent monthly deposits into the Debt Service Reserve Fund to accumulate therein in an amount equal to 10% of the combined monthly payment amount of principal of and interest on the Bond. Thereafter, so long as the Debt Service Reserve Fund maintains a balance of at least an amount that shall be equal to the maximum annual debt service on the Bond that shall be due and payable by the County, additional reserve deposits, if any, shall be placed into a depreciation account and may be used for asset replacement.

11. Neither the County, the Authority, the Commonwealth of Virginia, nor any other political subdivision of the Commonwealth of Virginia shall be obligated to pay the principal of or interest on the Bond or any other costs incident thereto or to fund the debt service reserve fund, except from the revenues and other security pledged therefore, and neither the faith and credit nor the taxing power of the Commonwealth of Virginia or any political subdivision thereof is pledged to the payment of the principal of or interest on the Bond or other costs incident thereto or to the establishment and maintenance of the debt service reserve fund. The Bond and the obligations of the County under this authorizing resolution do not and shall not constitute a debt or a pledge of the faith and credit of the Commonwealth of Virginia or any political subdivision thereof.

12. The County covenants that rates and charges with respect to the Project shall be established and collected in amounts from time to time that shall be sufficient to pay the principal of and interest on the Bond.

13. The Chairman or the Vice-Chairman, the County Administrator, and such other officers of the County as may be requested are hereby authorized and directed to take all proper steps to have the Bond prepared and executed in accordance with its terms and to deliver the Bond to RUS upon payment therefore, and to execute such instruments, documents and certificates as may be requested by the County Attorney or Bond Counsel and required by the Letter of Conditions in furtherance of the purposes set forth herein.

14. Any officer of the County to whom, or any bank trust company or fiscal agent to which, moneys received pursuant to the Bond are paid shall act as trustee of such moneys and shall hold and apply the same for the purposes provided in the Bond and pursuant to the requirements under the Virginia Code.

15. Any resolutions or parts thereof in conflict with the Prior Resolution or this Resolution, if any, are hereby repealed except such resolutions as may have been adopted by the County at the specific request of RUS, as a condition to the purchase of the Bond by RUS and acceptance of the RUS Grant, all as described herein.

16. The Chairman or the Vice Chairman, the County Administrator, and such other officers of the County as may be requested are hereby further authorized and directed to take all such further actions as may be necessary or convenient in connection with the RUS Grant, as described above.

17. The County Administrator is hereby authorized and directed to accomplish a proper filing of a certified copy of this Resolution in the Office of the Clerk of the Circuit Court of Rockingham County, Virginia.

18. This Authorizing Resolution shall take effect immediately.

Clerk's Note: The attachments to this Resolution are attached to and made a part of these Minutes.

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COMMITTEE REPORTS.

The Board heard Committee reports from Board members and staff.

On motion by Supervisor Cuevas, seconded by Supervisor Kyger and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; as recommended by the Finance Committee, the Board:

- As requested by the Director of Social Services, approved the following supplemental appropriations in the amount of \$14,754 for a new program, "Educational & Training Vouchers for Youths Aging out of Foster Care" (ETV). The program is funded with 70% Federal and 30% local funds. This amount is divided \$8,852 (\$6,197 Federal + \$2,655 local) for the City of Harrisonburg and \$5,902 (\$4,131 Federal + \$1,771 local) for Rockingham County.

\$14,754 \$5,902 GL Code: 220-05302-100-5743-000
(Educational & Training Vouchers) County

\$ 8,852 GL Code: 220-05302-200-5743-000
(Educational & Training Vouchers) City

- As requested by the Director of Social Services, approved a supplemental appropriation in the amount of \$820 for Harrisonburg's Head Start Child Care program. These funds are 100% Federal funded, requiring no local match.

\$ 820.00 GL Code: 220-05302-200-5739-000 (Head Start Program)
City

- As requested by the Fire and Rescue Chief, approved a supplemental appropriation in the amount of \$494,739 for an U.S. Department of Justice award of a COPS 2004 Technology Grant to the County for the purchase of communications equipment and infrastructure costs. Federal funding has been provided for this purchase with no local match required.

\$ 73,900 210-03506-100-8003-000 (Communications Equipment)

\$420,839 210-03506-100-8008-000 (Infrastructure)

- As requested by the Fire and Rescue Chief, approved a supplemental appropriation in the amount of \$280,000 for a Virginia Department of Emergency Services Joint Competitive Grant to the County (in conjunction with the City of Harrisonburg) for E-911 Infrastructure costs. Federal funding has been provided for this purchase with no local match required.

\$280,000 210-03506-200-8008-000 (Infrastructure)

- As requested by the Fire and Rescue Chief, approved the following supplemental appropriation of \$31,926 as funded from surplus funds from the Virginia Department of Fire Programs.

\$31,926 001-03201-900-6065-000 (Minor Equipment)

- As requested by the Fire and Rescue Chief, approved a supplemental appropriation of \$2,084 for reimbursement funds from the Virginia Department of Emergency Management for a Level III HAZMAT response in Page County on August 28, 2004. No local match is required.

\$2,084 001-03201-000-1300-000 (Overtime)

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CLOSED MEETING.

On motion by Supervisor Kyger, seconded by Supervisor Cuevas and carried by the following vote: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; and KYGER - AYE; the Board recessed the meeting from 7:26 to 7:54 p.m. for consultation with staff pertaining to Elkton annexation as set forth by Virginia Code Section 2.2-3771(A)(7).

At 7:54 p.m., Chairman Ahrend called the meeting back to order and the following motion was adopted.

MOTION: SUPERVISOR KYGER RESOLUTION NO: X04-13
SECOND: SUPERVISOR CUEVAS MEETING DATE: DEC. 15, 2004

CERTIFICATION OF CLOSED MEETING

WHEREAS, the Rockingham County Board of Supervisors has convened a Closed Meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of The Virginia Freedom of Information Act; and

WHEREAS, Section 2.2-3712 of the Code of Virginia requires a certification by this Board of Supervisors that such Closed Meeting was conducted in conformity with Virginia law;

NOW, THEREFORE, BE IT RESOLVED that the Rockingham County Board of Supervisors hereby certifies that, to the best of each member's knowledge, (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the Closed Meeting to which this certification resolution applies; and (ii) only such public business matters as were identified in the motion convening the Closed Meeting were heard, discussed or considered by the Board of Supervisors.

VOTE:

AYES: AHREND, BREEDEN, CUEVAS, FLOYD, KYGER
NAYS: NONE
ABSENT: NONE

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ELKTON ANNEXATION.

Mr. Brown summarized revisions to the Elkton Annexation Agreement in accordance with the following letter to the Town of Elkton, with the exception that the Town must begin construction no later than April 15, 2005.

On motion by Supervisor Breedden, seconded by Supervisor Kyger and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; the Board authorized that the following letter be sent to the Town.

December 13, 2004

VIA FACSIMILE: 434-7832

Nathan H. Miller, Esquire
Miller & Earle, PLLC
560 Neff Avenue, Suite 200
Harrisonburg, VA 22801

Re: Status of Water and Sewer Improvements to
Phase ID Under Annexation Agreement

Dear Nathan:

This letter is a follow up to the meeting held on December 9, 2004, between representatives of Rockingham County and the Town of Elkton regarding the status of the water and sewer improvements to Phase ID, commonly known as Pentecostal Hill, annexed by the Town on January 1, 2004. We understand that the Town would like to annex Phase II under the Annexation Agreement and has scheduled a public hearing on that annexation issue for this week.

To restate the concern of the Board of Supervisors with regard to annexation of Phase II by Elkton, Section 4 of the Annexation Agreement between the Town and Rockingham County provides that the Town may annex Phase II if the Town is not in default of its obligations under the Annexation Agreement. Section 6 of the Annexation Agreement requires the Town to begin construction of water and sewer utilities to service Phase ID within one (1) year of the date of annexation. While the Town has secured engineering plans for this construction, construction itself will not begin until considerably later than January 1, 2005.

Additionally, the Town has requested that it be allowed to take in a parcel of land containing just over one hundred sixteen (116) acres, commonly known as the Hiram Kite property, using a boundary line adjustment.

As discussed during the meeting on Thursday, December 9, 2004, and subject to final approval by the entire Board, the Board will allow the annexation of Phase II to continue as planned by the Town, and will cooperate in a boundary line adjustment to allow the Town to take in the Hiram Kite property, conditioned on the following:

1. Blackwell Engineering, PLC has prepared a Phasing Plan dated December 10, 2004 for constructing water and sewer lines for Pentecostal Hill. The Phasing Plan designates five (5) different phases for providing water and sewer to the Pentecostal Hill area, with Phase 1 designated in red. The Town agrees to issue a request for bid for construction of water and sewer lines and services for a minimum of Phase 1 as outlined on the Phasing Plan no later than December 31, 2004.
2. A bid will be awarded by the Town and construction of the Phase 1 water and sewer lines will begin no later than June 30, 2005.

3. Phases 2 through 5 as shown on the Phasing Plan shall be completed within six (6) years of the date of initial annexation (January 1, 2004), as required by the Annexation Agreement.
4. If the Town fails to issue a request for bid by December 31, 2004, or construction on Phase 1 water and sewer lines does not begin by June 30, 2005, a sum equal to all taxes, including real estate, personal property, BPOL, and meals taxes assessed by the Town of Elkton on that property located in Annexation Phase II will be paid by the Town to Rockingham County. At the County's option, such amount may be offset against the outstanding balance of the \$250,000 grant to be provided by Rockingham County to the Town in connection with the water and sewer services.

I believe this letter sets forth what was discussed at the meeting last Thursday. Again, the provisions in this letter are subject to final approval by the Board of Supervisors of Rockingham County. If we feel it prudent, after the tentative agreement is approved by the governing bodies of both localities, we can reduce this agreement to a formal amendment to the Annexation Agreement.

Thank you for your attention in this matter. If you have any questions or concerns about anything contained in this letter, please do not hesitate to contact me.

Sincerely,

G. Chris Brown
County Attorney

cc: Board of Supervisors
Joseph S. Paxton

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INFORMATION ITEMS.

The Board received the following information items from the County Administrator.

- a. Copy of letter dated November 22, 2004, from Carl G. Luebben concerning proposed legislation affecting the Chesapeake Bay Agreement.
- b. Copy of letter dated November 20, 2004, from the Town of Elkton concerning its Phase II annexation.

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ADJOURNMENT.

By consensus, the Board adjourned the meeting at 7:58
p.m.

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Chairman